

AMENDED IN ASSEMBLY APRIL 11, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1054

**Introduced by Assembly Member Mullin
(Coauthors: Assembly Members Hancock and Ruskin)**

February 23, 2007

An act to amend Section ~~27491.45~~ of 27491.4 of, and to add Section 27491.42 to, the Government Code, relating to autopsy investigations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1054, as amended, Mullin. ~~Local government: coroner: autopsy investigations.~~ *Autopsies: notification and consent.*

Existing law provides for the establishment and duties of certain county officers, including coroners. Existing law provides that a coroner shall have the right to retain parts of a body removed at the time of autopsy or acquired during the coroner's investigation as may, in the opinion of the coroner, be necessary or advisable for scientific investigation, as specified. Existing law further provides that these body parts may be submitted by the coroner to certain entities for training, educational, or research purposes under specified circumstances.

~~This bill would require a coroner, under certain circumstances, to inform specified individuals in a timely manner, as provided, that the coroner may retain parts of the body, as specified, and to offer to return any and all retained body parts when the retention is no longer necessary. The bill would not require a coroner to provide this information if, in the opinion of the coroner, providing notification or an offer to return parts of a body would compromise the integrity of an ongoing criminal investigation.~~

This bill would require a coroner, upon taking possession of a decedent's body, to make a reasonable effort, as defined, to provide specified individuals with certain information relating to the coroner's duties in connection with an autopsy.

The bill would also require the coroner, subject to certain limitations, to make a reasonable effort, as defined, to obtain the consent of specified individuals if the coroner seeks to retain organs of a body that were removed at the time of autopsy, only if the retention of these organs, in the opinion of the coroner, is not necessary for purposes of meeting statutory requirements related to the coroner's duty.

By increasing the duties of local officers, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

*Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.*

The people of the State of California do enact as follows:

1 *SECTION 1. Section 27491.42 is added to the Government*
2 *Code, to read:*
3 *27491.42. (a) Notwithstanding any other provision of law,*
4 *upon taking possession of a decedent's body in accordance with*
5 *this chapter, the coroner shall make a reasonable effort, as defined*
6 *in subdivision (d), to notify any individual described in paragraph*
7 *(1) of subdivision (a) of Section 7151 of the Health and Safety*
8 *Code of this fact, and to provide that person with information*
9 *relating to an autopsy, including, but not limited to, all of the*
10 *following:*
11 *(1) The coroner's duty to inquire into and determine the*
12 *circumstances, cause, manner, and mode of certain deaths,*
13 *pursuant to Section 27491, which includes the authority to conduct*
14 *an autopsy.*

1 (2) *The availability of the results of an autopsy upon completion*
2 *of the coroner's determination of the circumstances, cause,*
3 *manner, and mode of death.*

4 (3) *The authority of the coroner, subject to the limitations set*
5 *forth in subdivision (c), to retain parts of the body, as defined in*
6 *subdivision (g) of Section 7150.1 of the Health and Safety Code,*
7 *removed at the time of the autopsy as may, in his or her opinion,*
8 *be necessary or advisable for either of the following:*

9 (A) *An inquiry into the case or the verification of his or her*
10 *findings pursuant to Section 27491.4.*

11 (B) *Scientific investigation or training pursuant to Section*
12 *27491.45.*

13 (4) *If, before beginning the autopsy, the coroner is informed by*
14 *a relative or a friend of the decedent that the decedent had executed*
15 *a certificate of religious belief pursuant to Section 27491.43, the*
16 *coroner shall not perform the autopsy for 48 hours, except as*
17 *otherwise provided in this chapter.*

18 (5) *The location where the body of the decedent is being sent*
19 *after the autopsy.*

20 (6) *That the body of the decedent is not available for visitation*
21 *at the coroner's office.*

22 (7) *That any remains of the decedent shall be released in*
23 *accordance with the law.*

24 (8) *A telephone number that an individual may call to obtain*
25 *copies of the coroner's reports, and fees, if any, that may apply.*

26 (9) *The procedure by which authorized persons may obtain the*
27 *decedent's personal property.*

28 (10) *The procedure by which death certificates may be obtained*
29 *through a funeral home, and the telephone number of the*
30 *appropriate entity to contact for interested persons to obtain a*
31 *certified copy of the death certificate, and what fees, if any, apply.*

32 (11) *The telephone number to obtain information relating to*
33 *organ and tissue donation options.*

34 (12) *The telephone number of the coroner's office.*

35 (b) *The information that a coroner's office shall provide*
36 *pursuant to subdivision (a) may be made by the coroner or his or*
37 *her appointed deputy through oral, written, or electronic*
38 *communication.*

39 (c) (1) *After meeting the requirements set forth in Section*
40 *27491, if the coroner seeks to retain an organ pursuant to Sections*

1 27491.4 or 27491.45, the coroner shall make a reasonable effort,
2 as defined in subdivision (d), to obtain the consent of the person
3 or persons previously notified pursuant to subdivision (a) if, in the
4 opinion of the coroner, retaining the organ is not necessary for
5 purposes of satisfying the requirements set forth in Section 27491.

6 (2) After receiving consent to retain an organ pursuant to
7 paragraph (1), the coroner shall offer to return the retained organ,
8 in accordance with all applicable laws and regulations, when, in
9 the discretion of the coroner, the organ is no longer necessary for
10 the purpose for which it was retained.

11 (d) (1) For purposes of this section, “reasonable effort” means
12 a continuous search by a coroner, for up to 12 hours in duration,
13 if necessary, for a person to notify as described in subdivision (a).

14 (2) If necessary, a reasonable effort shall include, but need not
15 be limited to, all of the following:

16 (A) Checking all local police missing persons records.

17 (B) Examining the decedent’s personal effects.

18 (C) Questioning of any persons who visited the decedent before
19 his or her death or in the hospital, or who accompanied the
20 decedent’s body or reported the death, for the purpose of obtaining
21 information that might lead to the location of any of the persons
22 described in subdivision (a).

23 (e) This section shall not apply if, in the opinion of the coroner,
24 providing notification or an offer to return parts of a body would
25 compromise the integrity of an ongoing criminal investigation or
26 would constitute a public health hazard.

27 (f) In any case in which the circumstances, manner, or cause
28 of death is not determined because of the provisions of this section,
29 the coroner may state on the certificate of death that an autopsy
30 was not conducted because of the provisions of this section.

31 (g) A coroner shall not be liable for damages in a civil action
32 for any act or omission taken in compliance with this section.

33 SEC. 2. Section 27491.4 of the Government Code is amended
34 to read:

35 27491.4. (a) For purposes of inquiry the coroner shall, within
36 24 hours or as soon as feasible thereafter, where the suspected
37 cause of death is sudden infant death syndrome and, in all other
38 cases, the coroner may, in his or her discretion, take possession of
39 the body, which shall include the authority to exhume the body,
40 order it removed to a convenient place, and make or cause to be

1 made a postmortem examination or autopsy thereon, and make or
2 cause to be made an analysis of the stomach, stomach contents,
3 blood, organs, fluids, or tissues of the body. The detailed medical
4 findings resulting from an inspection of the body or autopsy by an
5 examining physician shall be either reduced to writing or
6 permanently preserved on recording discs or other similar recording
7 media, shall include all positive and negative findings pertinent to
8 establishing the cause of death in accordance with medicolegal
9 practice and this, along with the written opinions and conclusions
10 of the examining physician, shall be included in the coroner's
11 record of the death. The coroner shall have the right to retain only
12 those ~~tissues~~ parts of the body, *as defined in subdivision (g) of*
13 *Section 7150.1 of the Health and Safety Code*, removed at the time
14 of the autopsy as may, in his or her opinion, be necessary or
15 advisable to the inquiry into the case, or for the verification of his
16 or her findings, *in accordance with Section 27491.42*. No person
17 may be present during the performance of a coroner's autopsy
18 without the express consent of the coroner.

19 (b) In any case in which the coroner knows, or has reason to
20 believe, that the deceased has made valid provision for the
21 disposition of his or her body or a part or parts thereof for medical
22 or scientific purposes in accordance with Chapter 3.5 (commencing
23 with Section 7150) of Part 1 of Division 7 of the Health and Safety
24 Code, the coroner shall neither perform nor authorize any other
25 person to perform an autopsy on the body unless the coroner has
26 contacted or attempted to contact the physician last in attendance
27 to the deceased. If the physician cannot be contacted, the coroner
28 shall then notify or attempt to notify one of the following of the
29 need for an autopsy to determine the cause of death: (1) the
30 surviving spouse; (2) a surviving child or parent; (3) a surviving
31 brother or sister; (4) any other kin or person who has acquired the
32 right to control the disposition of the remains. Following a period
33 of 24 hours after attempting to contact the physician last in
34 attendance and notifying or attempting to notify one of the
35 responsible parties listed above, the coroner may perform or
36 authorize the performance of an autopsy, as otherwise authorized
37 or required by law.

38 (c) Nothing in this section shall be deemed to prohibit the
39 discretion of the coroner to conduct autopsies upon any victim of
40 sudden, unexpected, or unexplained death or any death known or

1 suspected of resulting from an accident, suicide, or apparent
2 criminal means, or other death, as described in Section 27491.

3 *SEC. 3. If the Commission on State Mandates determines that*
4 *this act contains costs mandated by the state, reimbursement to*
5 *local agencies and school districts for those costs shall be made*
6 *pursuant to Part 7 (commencing with Section 17500) of Division*
7 *4 of Title 2 of the Government Code.*

8 ~~SECTION 1. Section 27491.45 of the Government Code is~~
9 ~~amended to read:~~

10 ~~27491.45. (a) (1) The coroner shall have the right to retain~~
11 ~~parts of the body, as defined in subdivision (g) of Section 7150.1~~
12 ~~of the Health and Safety Code, removed at the time of autopsy or~~
13 ~~acquired during a coroner's investigation as may, in the opinion~~
14 ~~of the coroner, be necessary or advisable for scientific investigation~~
15 ~~and training. The coroner may employ or use outside laboratories,~~
16 ~~hospitals, or research institutions in the conduct of the coroner's~~
17 ~~scientific investigation or training.~~

18 ~~(2) Parts of the body retained pursuant to paragraph (1) may be~~
19 ~~released by the coroner to hospitals, medical educational research~~
20 ~~institutions, and law enforcement agencies for noncoroner training,~~
21 ~~educational, and research purposes, either upon consent of the~~
22 ~~decedent or other person, as specified in Section 7151 of the Health~~
23 ~~and Safety Code, or after a reasonable effort has been made to~~
24 ~~locate and inform persons listed in subdivision (a) of Section 7151~~
25 ~~of the Health and Safety Code of their option to consent or object~~
26 ~~to the release, and the appropriate person consents or that effort~~
27 ~~has been unsuccessful. A reasonable effort shall be deemed to have~~
28 ~~been made when a search for the persons has been underway for~~
29 ~~at least 12 hours. The search shall include a check of local police~~
30 ~~missing persons records, examination of personal effects, and the~~
31 ~~questioning of any persons visiting the decedent before his or her~~
32 ~~death or in the hospital, accompanying the decedent's body, or~~
33 ~~reporting the death, in order to obtain information that might lead~~
34 ~~to the location of any persons listed in subdivision (a) of Section~~
35 ~~7151 of the Health and Safety Code.~~

36 ~~(b) The coroner may, in his or her discretion, allow removal of~~
37 ~~parts of the body by a licensed physician and surgeon or trained~~
38 ~~transplant technician for transplant, or therapeutic, or scientific~~
39 ~~purposes pursuant to Chapter 3.5 (commencing with Section 7150)~~

1 of Part 1 of Division 7 of the Health and Safety Code, only if the
2 following conditions are met:

3 (1) The provision of the part will not unnecessarily mutilate the
4 body or interfere with the autopsy.

5 (2) The decedent or other person, as specified in Section 7151
6 of the Health and Safety Code, has consented to the provision of
7 the part, as prescribed by Section 7154 of the Health and Safety
8 Code, or after a reasonable effort has been made to locate and
9 inform persons listed in subdivision (a) of Section 7151 of the
10 Health and Safety Code of their option to consent or object to the
11 release, and the appropriate person consents, or that effort has been
12 unsuccessful. A reasonable effort shall be deemed to have been
13 made when a search for the persons has been underway for at least
14 12 hours. The search shall include a check of local police missing
15 persons records, examination of personal effects, and the
16 questioning of any persons visiting the decedent before his or her
17 death or in the hospital, accompanying the decedent's body, or
18 reporting the death, in order to obtain information that might lead
19 to the location of any persons listed in subdivision (a) of Section
20 7151 of the Health and Safety Code. In obtaining this gift, the
21 coroner shall notify the donor of the specific part or parts requested
22 and shall obtain the donor's informed consent, as provided in
23 Section 7150.5 or 7151 of the Health and Safety Code.

24 (e) Nothing in this section shall be construed as limiting any
25 right provided for in Section 7152 of the Health and Safety Code.

26 (d) For purposes of this section, "trained transplant technician"
27 means a person who has completed training in tissue removal for
28 transplant or therapeutic, or scientific purposes, which the coroner
29 determines to be adequate for the purposes.

30 (e) (1) If the coroner is aware of any individual described in
31 subdivision (a) of Section 7151 of the Health and Safety Code, he
32 or she shall inform that individual, in accordance with paragraph
33 (2), that parts of the decedent's body may be retained prior to the
34 release of remains for internment or other disposition.

35 (2) (A) To aid in the facilitation of planning the decedent's
36 final arrangements, the coroner shall provide the information
37 required under paragraph (1) in a timely manner.

38 (B) If body parts are retained pursuant to this section, and the
39 coroner reasonably anticipates that this retention may continue
40 beyond the scheduled date of release of remains, the coroner shall

1 ~~inform the person or persons previously notified pursuant to~~
2 ~~paragraph (1) of this fact.~~

3 ~~(C) When, in the opinion of the coroner, further retention is no~~
4 ~~longer necessary, the coroner shall offer to return any and all~~
5 ~~retained body parts in compliance with applicable law.~~

6 ~~(3) Paragraphs (1) and (2) shall not apply if, in the opinion of~~
7 ~~the coroner, providing notification or an offer to return parts of a~~
8 ~~body would compromise the integrity of an ongoing criminal~~
9 ~~investigation.~~

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